

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DALIO HOLDINGS I, LLC,

Plaintiff,

v.

WCW HOUSTON PROPERTIES, LLC,

Defendant.

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Civil Action Number: 4:18-cv-01882

(“Oldest Case”)

**The Honorable Al Bennett
United States District Judge**

WCW HOUSTON PROPERTIES, LLC,

Plaintiff,

v.

DALIO HOLDINGS I, LLC, ET AL,

Defendant.

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Civil Action Number: 4:20-cv-1561

**The Honorable Vanessa D. Gilmore
United States District Judge**

**DALIO HOLDINGS I, LLC’S
UNOPPOSED MOTION TO CONSOLIDATE**

Dalio Holdings I, LLC (“Dalio”) files this Motion to Consolidate for Discovery and Trial (“Motion”).

SUMMARY OF RELIEF REQUESTED

Pursuant to Rule 42 of the Federal Rules of Civil Procedure, and local Rule 7.6, Dalio, requests an order consolidating these actions: *Dalio Holdings I, LLC v. WCW Houston Properties, LLC*; Case. No. 4:18-cv-01882 (S.D. Tex. June 8, 2018) (“First Case”), with v. WCW Houston Properties, LLC V. Dalio Holdings I, LLC; 4:20-cv-01561 (S.D. Tex. May 1, 2020) (“Second Case”), for both discovery and trial.

RELEVANT FACTS

On May 25, 2017, Architectural Services International, Inc. filed suit against Texas REIT, LLC for collection on a promissory note, in Cause No. 2017-35320, in the 151st Judicial District Court of Harris County, Texas. In May 2018, WCW Houston Properties LLC (“WCW” purchased the note and substituted in as the plaintiff. On June 12, 2018 WCW filed an amended petition adding Dalio as a defendant, alleging the same claims as were already in the June 4, 2018 lawsuit pending in Civil Action No. 4:18-cv-01882. On June 25, 2018, Dalio removed the state court lawsuit to Federal Court in Civil Action No. 4:18-cv-02124. The Federal case was remanded to the state court in October 2018 after WCW announced to Judge Bennett in open court that it no longer had claims against Dalio, and was non-suiting Dalio.

On or about June 8, 2018, Dalio Holdings I, LLC (“Dalio I”) filed its Original Complaint in Civil Action No. 4:18-cv-01882, suing WCW for declaratory judgment regarding the parties rights to certain real property then owned by Dalio (“Property”), and the lien and their status related to that Property.

On or about December 21, 2018, WCW filed its Original Counterclaim asserting claims against Dalio I for wrongful foreclosure and for declaratory judgment, contending that the foreclosure and subsequent trustee’s deed to Dalio I is void.

On or about August 29, 2019, WCW filed an Original Complaint in Civil Action No. 19-cv-03266, against Dalio Holdings II, LLC, seeking a declaration that deed of trust purportedly granted by Dalio I to Dalio II is void because, among other reasons, Dalio I’s title to the property is void as it arose from a wrongful foreclosure.

On April 8, 2020, WCW filed (after the pleading deadline) a Fourth Amended Petition in Case No. 2017-35320, pending in the 151st Judicial District Court of Harris County, Texas, adding

Dalio and Dalio Holdings II, LLC and alleging the same claims as already pending in Civil Action No. 4:18-cv-01882. On May 1, 2020, Dalio removed this state court case to Federal Court in Civil Action No. 20-cv-01561, which is now pending before Judge Vanessa D. Gilmore.

ARGUMENT AND AUTHORITIES

Federal Rule of Civil Procedure 42(a) states in pertinent part that:

If actions before the court involve a common question of law or fact, the court may . . . consolidate the actions.

See: FED. R. CIV. PROC., RULE 42(A)(2). The two subject cases should be consolidated.

The two cases involve common questions of law. The First Case and the Second Case both deal with the same Property. The Plaintiff's in both cases seek declaratory relief regarding the rights of the parties in relation to the Property. The only difference is an additional party.

The two cases involve common questions of law and fact. The manner in which Dalio I foreclosed on the property is a common and central question to both cases. Moreover, the legal question of Dalio I's title to the property arising from its foreclosure is a legal issue common to both cases. Accordingly, as common issues of law and fact predominate both cases, the court should order consolidation.

Judicial convenience and economy will be promoted by consolidation of the actions. Consolidation will result in one trial which will bind all plaintiffs and defendants. This will save time and avoid unnecessary costs to the defendants, the plaintiffs in both actions, witnesses who would otherwise be required to testify in two cases, and this Court.

Consolidation will not delay the final disposition of this matter.

Prayer

Based on the foregoing, Dalio Holdings I, LLC respectfully requests that the court: 1) consolidate *Dalio Holdings I, LLC v. WCW Houston Properties, LLC*; Case. No. 4:18- cv-01882

(S.D. Tex. June 8, 2018), with Dalio Holdings I, LLC v. WCW Houston Properties, LLC; 4:20-cv-01561 (S.D. Tex. May 1, 2020); and 2) grant Dalio all further requests to which it is justly entitled, at law or in equity.

RESPECTFULLY SUBMITTED,

MICHAEL C. O'CONNOR, P.C.

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COUNSEL FOR DALIO HOLDINGS I, LLC

CERTIFICATE OF CONFERENCE

I have conferred with Plaintiff's counsel regarding the relief requested in this Motion. Plaintiff is unopposed to that relief.

/s/ Michael C. O'Connor
Michael C. O'Connor

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing was served on all parties entitled to receive notice through the court's ECF system on May 18, 2020.

/s/ Michael C. O'Connor
Michael C. O'Connor